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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83196; File No. SR-Phlx-2018-33]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Memorialize Its Order And Execution Information into Phlx Rule 1070

May 9, 2018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 27, 2018, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to memorialize its order and execution information into Phlx Rule 1070.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to memorialize its order and execution information into Rule 1070, entitled "Data Feeds." The Exchange proposes to rename this rule "Data Feeds and Trade Information." The Exchange proposes other grammatical corrections in Rule 1070(a) as well.

Section 1070(b)

First, the Exchange proposes to adopt a new Rule 1070(b) and relocate the CTI description into 1070(b)(1) as this information concerns a member's specific trade information as compared to information available concerning the Phlx Order Book, which data is described in 1070(b). The current description includes examples in the first sentence which are not being replicated within the new description, e.g. trade corrections, trade cancels, options directory messages, Complex Order Strategy messages, trading action messages, and halt and system event messages. The Exchange is renumbering to be more consistent throughout Rule 1070 to conform the rule. A similar change to the numbering is being made with this proposal with the PHLX Depth of Market description in Rule 1070(a)(3). The Exchange is also noting within the CTI description that it "contains trade details specific to that member" to bring more clarity to the information being provided.

The Exchange proposes to memorialize TradeInfo in new Rule 1070(b)(2). The Exchange originally noted in the TradeInfo Filing<sup>3</sup> that TradeInfo permits a member to:

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<sup>3</sup> See Securities Exchange Act Release No. 66284 (February 1, 2012), 77 FR 6162 (February 7, 2012) (SR-Phlx-2012-04) ("TradeInfo Filing").

scan for all orders in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.). A subscribing member is able to cancel open orders at the order, port or firm mnemonic level. TradeInfo allows a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders. A subscribing member may generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review. TradeInfo permits a subscribing member to manage their order flow and mitigate risk by giving them the ability to view their orders and executions, as well as the ability to perform cancels at the port level. Last, TradeInfo allows a subscribing member to download records of their orders and executions for record-keeping purposes.

The Exchange proposes to align the description of TradeInfo on Phlx with the description that was filed for The Nasdaq Options Market LLC and Nasdaq BX, Inc., where this service is also offered.<sup>4</sup> The proposed description on those markets provided that TradeInfo permits a member to: (i) search all orders submitted in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.); (ii) cancellation of open orders at the order, port or firm mnemonic level; and (iii) a view of orders and executions; and download of orders and executions for recordkeeping purposes. The Exchange proposes to add to this description that TradeInfo is a user interface, as compared to a data stream, to add more detail to the description. While some descriptive language is being removed from the rules, such as permitting a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders, the Exchange believes that this language is covered in the current description in that the text indicates that all orders may be searched regardless of their

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<sup>4</sup> See Securities Exchange Act Release Nos. 65180 (August 22, 2011), 76 FR 53521 (August 26, 2011) (SR-NASDAQ-2011-111); and 60826 (October 14, 2009), 74 FR 54605 (October 22, 2009) (SR-BX-2009-062).

status. Similarly, the description which provides that a subscribing member may generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review is covered in that the Exchange notes that a view of the orders and execution may be downloaded. Finally, the Exchange proposes to rename “TradeInfo” as “TradeInfo PHLX Interface” to make it consistent with the naming of this offering on NOM and BX.

The Exchange considers it appropriate to memorialize the order and execution information available on Phlx within a rule so that members may understand the trade information which is available on the Exchange as it pertains to a firm’s trading information. This data is available to all members regarding that members’ transactions. Pricing for all ports is included in the Exchange’s Pricing Schedule at VII, B.<sup>5</sup>

#### Rule 1070(a)

The Exchange proposes minor changes to Rule 1070(a)(1) and (2) to change the language to indicate the Top of PHLX Options and PHLX Orders each separately are data feeds and removing the “A” before the description. As mentioned above, the numbering is also being amended with the PHLX Depth of Market description within Rule 1070(a)(3).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open

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<sup>5</sup> See also SR-Phlx-2018-34 (not yet published) which proposes conforming changes to the fee schedule.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on Phlx.

The Exchange notes that it described TradeInfo in a prior rule change.<sup>8</sup> The Exchange believes that memorializing this information within a rule and updating the information will provide market participants with a list of information available specific to their trading on Phlx. The Exchange believes that this proposal is consistent with the Act because it provides information on the content available to market participants regarding the trades they execute on Phlx.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on Phlx.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest,

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<sup>8</sup> See note 3.

the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more information regarding the order and execution information it offers and further the protection of investors and the public interest because it will provide greater transparency as to the trade detail available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.<sup>11</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2018-33 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2018-33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F

Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2018-33 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).



